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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,786	11/12/2003	Terrence W. Schmidt	1934-9-3	7807

7590

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EXAMINER

OLSON, LARS A

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/712,786

Applicant(s)

SCHMIDT ET AL.

Examiner

Lars A Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 14, 2005 has been entered.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: #115, 112a-b, 113, 201, 105a-b, 150, 551, 552, 553, 554.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: #200, 215, 305, 400, 405, 410.
4. Figure 3a has reference number 350 which should be corrected to be 351.
5. Figure 3b has reference number 351 which should be corrected to be 352.
6. Figure 3c has reference number 352 which should be corrected to be 353.
7. Figure 3d has reference number 353 which should be corrected to be 354.
8. Figure 5b has reference number 515 which should be corrected to be 510.

9. Figure 5c has reference number 520 which should be corrected to be 510.
10. Figure 5d has reference number 525 which should be corrected to be 510.
11. Figures 6a-c were inadvertently provided with the application, and should be canceled.
12. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-4 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Propp (US 5,043,065).

Propp discloses the same vessel as claimed, as shown in Figures 1-6, that is comprised of a propulsion system, defined as Part #12, a hull, defined as Part #10, having multiple operating modes in which said hull is operable by means of said propulsion system to be moved from one location to another location, as described in lines 54-59 of column 1, and a ballast system that is operable to select one of said operating modes, as described in lines 9-28 of column 6, by adjusting the level of ballast within said vessel. Said vessel further includes a payload in the form of water, as described in lines 6-13 of column 3, and said ballast system is operable to select one of said operating modes by adjusting the draft of said vessel using said payload.

Propp also discloses the same method as claimed, as shown in Figures 1-6, that is comprised of the steps of selecting one of multiple hull modes for a water vessel, as described in lines 54-59 of column 1, operating said vessel in a selected hull mode, setting a draft of said vessel to a level that corresponds to a hull mode, adjusting the draft of said vessel to a corresponding level, as described in lines 9-28 of column 6, and adjusting the amount and position of ballast and payload on said vessel.

15. Claims 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Barbier et al. (US 5,787,828).

Barbier et al. discloses the same water vessel as claimed, as shown in Figures 1-6, that is comprised of a hull having a first portion and a second portion, defined as Part #11, said vessel having multiple traveling modes in which said hull is operable to move from one location to another location, as described in lines 60-65 of column 2, and a ballast system, as shown in Figure 4, for adjusting the draft of said vessel using a

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payload, as described in lines 29-36 of column 2. Said ballast system is operable to select a SWATH mode of operation by adjusting the draft of said vessel.

***Conclusion***

16. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

April 13, 2005

**LARS A. OLSON  
PRIMARY EXAMINER**

*Lars Olson*  
4/13/05